

Bellevue 120th Avenue NE Corridor Project

PRELIMINARY DRAFT
Permitting and Compliance Technical
Report

prepared for
City of Bellevue

prepared by
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1.0

Introduction

1.1 Purpose of This Report

This *Permitting and Compliance Technical Report* is being prepared as part of the Bellevue 120th Avenue NE Corridor Project for the City of Bellevue, which proposes to widen 120th Avenue NE from NE 8th Street in the south to Northrup Way in the north. The purpose of this report is to discuss the anticipated permitting and compliance requirements based on the project and its potential effects on the existing environment.

2.0

Proposed Project

2.1 Project Overview

The 120th Avenue NE Corridor Project (Segments 2 and 3) extends from just south of NE 8th Street to Northrup Way. The City of Bellevue (City) proposes to widen the existing corridor from a two-lane roadway to a five-lane roadway. Figure 2-1 shows the project study area.



Figure 2-1. Project Study Area

The elements of the project include the following:

- Widen to five travel lanes (two travel lanes in each direction and a center turn lane)
- Realign the roadway south of Bel-Red Road to improve intersection operations at the NE 8th Street intersection
- Install continuous sidewalks and bicycle lanes on both sides of the street designed to City arterial street standards
- Include planting strips on both sides of the roadway, and other green spaces where possible
- Install storm drainage and water quality facilities that use natural drainage practices
- Connect with and minimize impacts to open-space areas and wetlands
- Accommodate new intersections with the planned NE 15th/16th Street Corridor and Sound Transit's East Link light rail line

Other project elements include illumination, landscaping, structural walls, traffic signals, and new and relocated utilities (Figure 2-2).

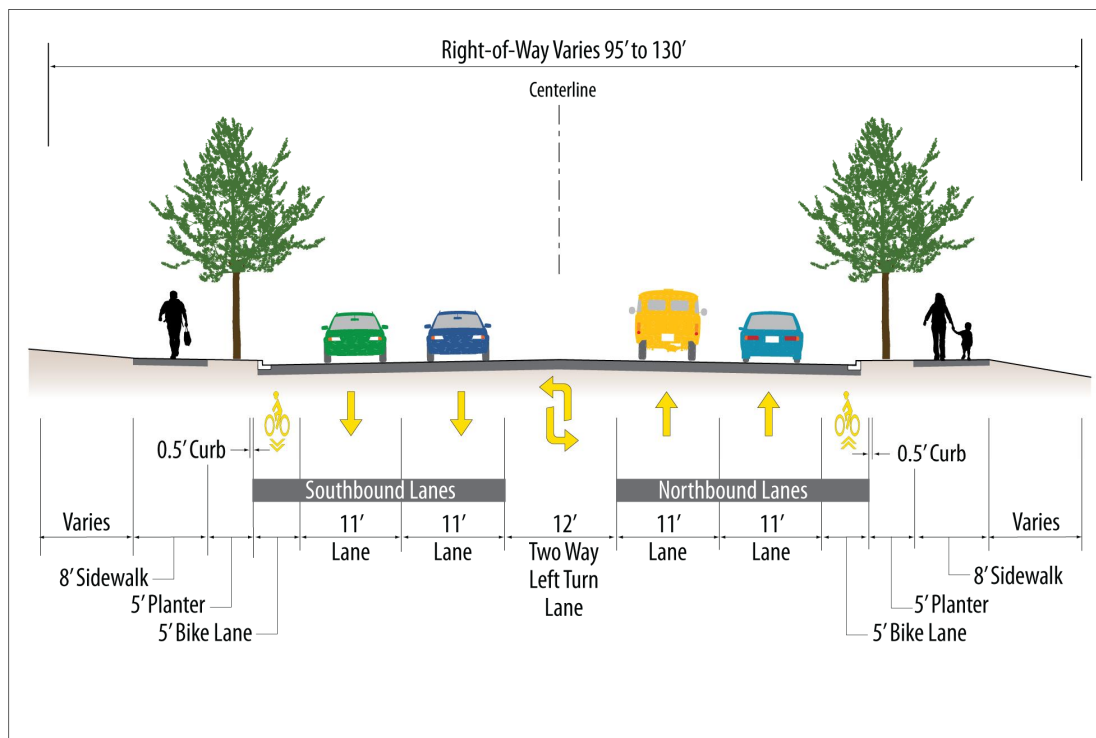


Figure 2-2. Typical Cross-Section

The term "right-of-way", as used in this report, includes both right-of-way owned by the City and permanent easement, i.e. the complete footprint of the project.

1 Project construction would occur over a two-year period. It is assumed that
2 improvements from NE 8th Street to NE 12th Street would be completed and
3 opened to traffic prior to those from NE 12th Street to Northup Way. This
4 construction sequencing would minimize traffic impacts.

5 A minimum of one lane would be open for traffic in each direction along 120th
6 Avenue NE as the project is constructed. The construction would occur on one-
7 half of the roadway at a time. Only Bel-Red Road would be closed for any length
8 of time (9 to 12 months) during the realignment of 120th Avenue NE near NE 8th
9 Street.

10 Generally, the work is anticipated to occur in the following sequences:

- 11 • Contractor Mobilization—Months 1 and 2
- 12 • NE 8th Street to NE 12th Street Improvements—Months 3–12
 - 13 □ Traffic control and temporary erosion control
 - 14 □ Utility relocation/installation
 - 15 □ Roadway Side 1—Retaining walls, grading, paving, signals, and
 - 16 illumination
 - 17 □ Roadway Side 2—Retaining walls, grading, paving, signals, and
 - 18 illumination
- 19 • NE 12th Street to Northup Way Improvements—Months 13-24
 - 20 □ Traffic control and temporary erosion control
 - 21 □ Utility relocation/installation
 - 22 □ Roadway Side 1—Retaining walls, grading, paving, signals, and
 - 23 illumination
 - 24 □ Roadway Side 2—Retaining walls, grading, paving, signals, and
 - 25 illumination

26 The *Project Description Technical Report* contains a detailed description of the
27 project.

3.0

Permits and Compliance Required

3.1 Land Use Permits and Compliance

The project would be required to comply with the National Environmental Policy Act (NEPA) and Washington's State Environmental Policy Act (SEPA). SEPA was enacted in 1971 and provides the framework for agencies to consider the environmental consequences of a proposal prior to taking action; environmental review is required for any proposal involving a government action.

Please see Table 3-1 for details regarding the land use permits and compliance discussed below.

3.1.1 Right-of-Way Use Permit

The City owns the property under, on and above the roadways and sidewalks, usually extending 10 to 20 feet beyond the roadway pavement. Assets within the right-of-way may include the roadway, curb, gutter, sidewalks, vegetation, sewer and water lines, as well as telephone, power, and other utility infrastructure.

The project would require a Right-of-Way Use Permit because it would disrupt traffic during construction activities, and includes the permanent modification of infrastructure within the public right-of-way.

3.1.2 Clearing/Grading Permit

The Bellevue City Code includes Chapter 23.76, the Clearing and Grading Code. The purpose of this chapter is to enact regulations consistent with the environmental element of the City's comprehensive plan to protect natural resources and public health and safety from the potential adverse effects associated with clearing and grading private and public land in the City. Prevention of adverse effects associated with clearing and grading activities through a proactive approach, rather than the remediation of adverse effects, is the focus of this permit.

The project would require a Clearing and Grading Permit because clearing and grading activities would be performed during site preparation, and fill and excavation work would occur during construction.

1 Table 3-1. Land Use Permits and Compliance Details

Permit or Act Compliance	Permit/Reporting Submittal Requirement(s)	Permit/Reporting Submittal Fees	Reviewing Agency and Review Contact	Approximate Review Time and Notes
Right-of-Way Use Permit	Right-of-Way Use Permit Application	Fees associated with staff review; amount shall be determined based on time and cost to review, inspect, research, and coordinate the applicants' data for each permit application.	City of Bellevue, Transportation Department, Right-of-Way Use Division Dottie Schmidt, City Planning and Community Development (425) 452-2888 dschmidt@bellevuewa.gov	26 days
Clearing/Grading Permit	Clearing and Grading Permit Application with: 1. Standards for Plans and Drawings 2. Boundary and Topographic Survey 3. Site Plan B 4. Stormwater Permitting for Construction Sites 5. Clearing and Grading Plan and Temporary Erosion and Sedimentation Control (TESC) Plan, including construction sequencing 6. Final Landscape Plan, including permanent BMPs 7. Geotechnical Report 8. Wetland Report 9. Environmental Checklist Cover Sheet 10. Environmental Checklist 11. Billing System 12. Slope Categories Drawing	Fees associated with staff review. A \$435 deposit is required. Staff will review the application and charge those hours of review and inspections against the deposit; if the deposit is used up, any additional hours will be billed monthly. Any remaining deposit balance will be refunded.	City of Bellevue, Development Services Janney Gwo, City Planning and Community Development (425) 452-6190 jgwo@ci.bellevue.wa.us	243 days City reviews the permit application as a "Clearing and Grading with SEPA". The project site is not subject to rainy season restrictions. A stormwater pollution prevention plan (SWPPP) would be required, including turbidity and pH monitoring plan. (Follow the National Pollutant Discharge Elimination System – General Stormwater Permit for Construction Activities SWPPP outline)

2 3.2 Water Resources Permits and Compliance

3 Please see Table 3-2 for details regarding the water resources permits and
4 compliance discussed below.

3.2.1 Section 404 of the Clean Water Act (CWA)

A Section 404 Permit is required if there are plans to discharge dredged or fill material into waters of the U.S., including special aquatic sites such as wetlands. The U.S. Army Corps of Engineers (Corps) can authorize activities through three different types of permits: standard individual permit, nationwide permit, or regional permit. The Corps will determine what type of permit is needed for a project. The application for a Section 404 permit is included in process for the Joint Aquatic Resources Permit Application (JARPA) in Washington State.

The project would require dredging and the discharge of fill material waterward of the ordinary high water line in waters of the U.S. at the West Tributary of Kelsey Creek and four distinct wetland areas. At this time it is expected that the project would qualify for a Nationwide Permit 14 for Linear Transportation Projects since less than 0.5 acre of wetland would be impacted.

3.2.2 Section 401 of the Clean Water Act (CWA)

Applicants receiving a Section 404 permit from the Corps are required to obtain a Section 401 Water Quality Certification from the Washington State Department of Ecology (Ecology). Issuance of a certification means that Ecology anticipates that the applicant's project will comply with state water quality standards and other aquatic resource protection requirements under Ecology's authority. The 401 Certification can cover both the construction and operation of the proposed project. Conditions of the 401 Certification become conditions of the federal permit or license. The application for a Section 401 Permit is included in process for the JARPA in Washington State.

3.2.3 Hydraulic Project Approval (HPA)

Any work that uses, diverts, obstructs, or changes the natural flow or bed of any fresh water or saltwater of the state requires a Hydraulic Project Approval (HPA) from the Washington State Department of Fish and Wildlife (WDFW). This includes all construction or other work waterward of the ordinary high water line.

The project would divert and change the bed and flow of the West Tributary of Kelsey Creek, and would involve work waterward of the ordinary high water line at four distinct wetland areas.

3.2.4 National Pollutant Discharge Elimination System (NPDES) Stormwater Permit – General Construction Activities

Federal law requires this permit under the National Pollutant Discharge Elimination System. Ecology requires any construction activity that disturbs one acre or more and may result in the discharge of stormwater to surface waters of the state, to obtain permit coverage. Construction site operators are required to install and maintain erosion and sediment control measures to prevent stormwater from washing soil, nutrients, chemicals, and other harmful pollutants into local water bodies.

The project would result in the disturbance of an area over one acre, and construction activities would have the potential to discharge stormwater to surface waters of state, including the West Tributary of Kelsey Creek.

Table 3-2. Water Resources Permits and Compliance Details

Permit or Act Compliance	Permit/Reporting Submittal Requirement(s)	Permit/Reporting Submittal Fees	Review Agency and Review Contact	Approximate Review Time and Notes
Section 404 of the Clean Water Act	Joint Aquatic Resources Permit Application (JARPA) with: 1. Wetland and Stream Delineation Report 2. Mitigation Plan	No fee for federal, state, or local government agencies.	U.S. Army Corps of Engineers (Corps), Seattle District Jacalen Printz, Corps Seattle District Project Manager (206) 764-6901 Jacalen.m.Printz@usace.army.mil	Wetland Delineation Report: 1 – 2 months Critical Areas Report: 3 – 6 months
Section 401 of the Clean Water Act	JARPA with: 1. Wetland and Stream Delineation Report 2. SWPPP 3. Best Management Practices (BMPs) Plans 4. SEPA compliance 5. Project Plans 6. Site Hydraulics	No fee for certification.	Department of Ecology (360) 407-6000 http://www.ecy.wa.gov/	Up to one year to approve, condition, or deny; usually less than three months.
Hydraulic Project Approval	JARPA	No fee is charged.	Washington State Department of Fish and Wildlife (DFW) Larry Fisher, DFW Area Habitat Biologist (425) 313-5683 Larry.Fisher@dfw.wa.gov	45 days after receipt of complete application and compliance with SEPA.
NPDES Permit Stormwater for General Construction Activities	Notice of Intent (NOI) with: 1. JARPA 2. SWPPP 3. Best Management Practices (BMPs) Plans 4. SEPA compliance 5. Project Plans 6. Site Hydraulics	No application fee. Washington State law requires all permittees to pay an annual fee. The minimum is \$353, but is higher for larger disturbance areas.	Washington State Department of Ecology (Ecology) Clay Keown, Ecology (360) 407-6048 Clay.keown@ecy.wa.gov	60 days

3.3 Biological Resources Permits and Compliance

Please see Table 3-3 for details regarding the biological resources permits and compliance discussed below.

3.3.1 Endangered Species Act (ESA)

The Endangered Species Act (ESA) was signed into law in 1973, and was designed to protect critically imperiled species from extinction. It is also meant to protect the ecosystems necessary for the survival of such species, including habitat and feeding grounds.

The project would be required to comply with the ESA because it would receive federal funding and require a federal-level permit (Section 404 of the Clean Water Act). A Biological Assessment was completed to comply with Section 7 of the ESA; at this time no impacts to species protected under ESA are anticipated.

3.3.2 Magnuson-Stevens Fishery Conservation and Management Act (MSA)

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) is the primary law governing marine fisheries management in federal waters of the U.S., first enacted in 1976 and amended in 1996. The act is meant to manage fisheries and promote conservation, while the 1996 amendments added additional focuses of rebuilding overfished fisheries, protecting essential fish habitat, and reducing bycatch.

The project would be required to comply with the MSA because it would receive federal funding and require a federal-level permit (Section 404 of the Clean Water Act). A Biological Assessment was completed to comply with Section 7 of the ESA; at this time no adverse impacts to species protected under MSA are anticipated.

3.3.3 Fish Habitat Enhancement Exemption

Under the Revised Code of Washington (RCW) 77.55.181, a project may receive streamlined permit review and approval if it is designed to enhance fish habitat. If a project meets the requirements of the Application for Streamlined Processing of Fish Habitat Enhancement Projects Addition to the JARPA, there can be various benefits. The project could be entitled to a streamlined HPA process, exemption from SEPA, and exemption from all local government permits and fees.

The project would eliminate a human-made fish passage barrier by replacing the culvert that crosses under 120th Avenue NE at the West Tributary of Kelsey Creek so it would become fish-passable. As a result, the project could qualify for this exemption but would need to find an approved agency sponsor.

3.3.4 Critical Areas Chapter of the City's Municipal Code

The City of Bellevue established Part 20.25H, Critical Areas Overlay District as a mechanism to recognize natural conditions which affect the use and development of property. The City designates and classifies ecologically sensitive and hazard areas, and imposes regulations on the use and development of property to

1 protect the functions and values of these areas, as well as public health, safety,
2 and welfare, while allowing reasonable use of private property.

3 The project would disturb and result in permanent modification of critical areas
4 and critical area buffers at the West Tributary of Kelsey Creek and four distinct
5 wetland areas, including habitat for the pileated woodpecker. However, under
6 the Growth Management Act, public facilities projects may apply for an
7 exemption.

1 Table 3-3. Biological Resources Permits and Compliance

Permit or Act Compliance	Permit/Reporting Submittal Requirement(s)	Permit/Reporting Submittal Fees	Review Agency and Review Contact	Approximate Review Time and Notes
Endangered Species Act	Biological Assessment	No fee associated with compliance.	Washington State Department of Transportation (WSDOT) Phil Segami, WSDOT, Local Programs (206) 440-4736 SegamiP@wsdot.gov	30 days U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) review higher effect calls.
Magnuson-Stevens Act	Essential Fish Habitat Evaluation	No fee associated with compliance.	National Oceanic and Atmospheric Administration (NOAA) Phil Segami, WSDOT, Local Programs (206) 440-4736 SegamiP@wsdot.gov	30 days
Fish Habitat Enhancement Exemption	Application for Streamlined Processing of Fish Habitat Enhancement Projects Addition to the JARPA with: 1. JARPA 2. Project plans 3. Letter of approval of the project from one of the approved sponsoring agencies	No fee.	Washington State Department of Fish and Wildlife (DFW) Larry Fisher, DFW Area Habitat Biologist (425) 313-5683 Larry.Fisher@dfw.wa.gov City of Bellevue, Planning Department	DFW has 45 days to make a determination; City Planning Department has 15 days to submit comments to DFW
Critical Areas Chapter of the City of Bellevue's Municipal Code	JARPA with: 1. Wetland and Stream Delineation Report 2. Critical Areas Report 3. Mitigation Plan Public facilities may apply for an exemption in buffer areas.	No fee for federal, state, or local government agencies.	City of Bellevue, Transportation Department Ray Godinez, Transportation Development Review (425) 452-7915 rgodinez@bellevuewa.gov	156 days

3.4 Air Quality Permits and Compliance

3.4.1 Clean Air Act

The project would be required to comply with the Clean Air Act (CAA) because it would receive federal funding and require a federal-level permit (Section 404 of the Clean Water Act). The CAA Amendments of 1990 and the Final Transportation Conformity Rule [40 CFR Parts 51 and 93] direct the U.S. Environmental Protection Agency (EPA) to implement environmental policies and regulations that will ensure acceptable levels of air quality.

The project is not predicted to measurably affect regional miles of travel in the study area. As such, the project is not predicted to impact regional CO, PM₁₀, PM_{2.5}, and O₃ levels. Based on the microscale carbon monoxide (CO) screening analysis conducted, the project is not predicted to cause or exacerbate a violation of the applicable ambient air quality standards. Thus, it would be in compliance with EPA local (microscale) requirements under EPA's Conformity Rule for a project located in a CO maintenance area, and no permit would be required.

3.5 Noise Permits and Compliance

Please see Table 3-4 for details regarding the noise quality permits and compliance discussed below.

3.5.1 Construction Noise Variance

A noise variance may be required by the City if project construction noise is predicted to exceed the City of Bellevue's noise limits or if nighttime construction is required to maintain daytime traffic flow or schedule requirements.

3.5.2 Traffic Noise 23 CFR 772

23 CFR Part 772 provides procedures for noise studies and noise abatement measures to help protect the public health and welfare, to supply noise abatement criteria, and to establish requirements for information to be provided to local officials for use in the planning and design of highways.

The project would be required to comply with 23 CFR Part 772 because it would receive federal funding and require a federal-level permit (Section 404 of the Clean Water Act).

Table 3-4. Noise Quality Permits and Compliance Details

Permit or Act Compliance	Permit/Reporting Submittal Requirement(s)	Permit/Reporting Submittal Fees	Review Agency and Review Contact	Approximate Review Time and Notes
Construction Noise Variance	Noise Control Plan	No fee associated with compliance.	City of Bellevue, Development Services	Less than 30 days
Traffic Noise 23 CFR Part 772	Traffic Noise Report	No fee associated with compliance.	Federal Highway Administration (FHWA) Phil Segami, WSDOT, Local Programs (206) 440-4736 SegamiP@wsdot.gov	30 days

3.6 Historic and Cultural Resources Permits and Compliance

Please see Table 3-5 for details regarding the historic and cultural resources permits and compliance discussed below.

3.6.1 Section 106 of the National Historic Preservation Act (NHPA)

Section 106 requires that all federal agencies take into account the effect of its actions on historic properties; requirements apply to any federal undertaking, funding, license, or permit. The Washington State Department of Archaeology and Historic Preservation (DAHP) and affected tribes must be consulted to help determine if the site has been surveyed, if there are identified historical resources on-site, and if the property is listed or eligible for listing on the National Register of Historic Places.

The project would be required to undergo Section 106 review because it would receive federal funding.

Table 3-5. Historic and Cultural Resources Permits and Compliance Details

Permit or Act Compliance	Permit/Reporting Submittal Requirement(s)	Permit/Reporting Submittal Fees	Review Agency and Review Contact	Approximate Review Time and Notes
Section 106 of the NHPA	Area of Potential Effects (APE) Letter Cultural Resources Report	No fee associated with compliance.	Washington State Department of Archaeology and Historic Preservation (DAHP) and Affected tribes Phil Segami, WSDOT, Local Programs (206) 440-4736 SegamiP@wsdot.gov	30 days each by DAHP 35 days each by affected tribes

3.7 Other

Please see Table 3-6 for details regarding the other permits and compliance discussed below.

3.7.1 Utilities

The Utility Developer Extension (UE) Agreement is intended to cover the City's Code requirements for water, sanitary sewer, and storm drainage developer extension agreements. Design review and inspection is performed under this agreement and is similar to a permit process.

The project would be required to file a UE Agreement because it would include the extension of existing utilities, and could result in the relocation of some utilities.

3.7.2 Signage

The City established the Sign Code to protect the health, safety, property, and welfare of the City's residents by establishing standards for the design, placement, size, and maintenance of all exterior signs and sign structures in the City.

The project would be required to file a Sign Permit Application because it would include the installation of new, altered, and/or relocated signs.

1 Table 3-6. Other Permit and Compliance Details

Permit or Act Compliance	Permit/Reporting Submittal Requirement(s)	Permit/Reporting Submittal Fees	Review Agency and Review Contact	Approximate Review Time and Notes
Utilities	Utility Developer Extension Agreement – XV Permit with: 1. Standards for Plans and Drawings 2. Boundary and Topographic Survey 3. Site Plan B 4. Geotechnical Report 5. Wetland Report 6. Billing System	No fee for federal, state, or local government agencies.	City of Bellevue Utilities Department Mark Dewey, City Planning and Community Development (425) 452-7903	156 days
Signage	Sign Permit Application with: 1. Design Plans	No fee for federal, state, or local government agencies.	City of Bellevue, Development Services Ray Godinez, Transportation Development Review (425) 452-7915 rgodinez@bellevuewa.gov	40 days

2

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